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May 18, 2017

**Via CM/ECF and E-Mail**

Honorable Joan N. Ericksen  
United States District Court  
12W U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415

Honorable William H. Leary III  
Ramsey County Juvenile &  
Family Justice Center  
25 E. 7<sup>th</sup> Street  
St. Paul, MN 55102

Honorable Franklin D. Noel  
United States District Court  
9W U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415

***Re: MDL 2666: In re: Bair Hugger Forced Air Warming Products Liability  
Litigation, and  
In Re: 3M Bair Hugger Litigation (Ramsey County Master File No.  
62-CV-15-6432)***

Dear Judge Ericksen, Judge Leary, and Judge Noel,

Pursuant to Pretrial Order 17: Amended Scheduling Order, Plaintiffs hereby submit this letter brief summarizing why two of the three cases nominated by Defendants as potential bellwether candidates are not representative of the range of cases in the above entitled consolidated actions, and thus should not be selected.

**1. Jeffrey Knuteson (D.Minn. 16-cv-01088)  
Plaintiff's Counsel: Lockridge, Grindal Nauen P.L.L.P.**

There are two relevant issues with respect to Mr. Knuteson's case. First, Plaintiffs were advised on May 4, 2017 that Mr. Knuteson was quite unfortunately diagnosed with cancer this spring. Mr. Knuteson began a course of chemotherapy and radiation in April, which is set to continue for at least eight

weeks. What Mr. Knuteson's course of treatment will be beyond those eight weeks is presently unknown, but his attorneys advised, understandably, there is concern about his ability to travel or attend court. We advised Defense counsel of this recently discovered health issue, and offered to have Defendants substitute in a new nomination in place of Mr. Knuteson. At this time, Defendants have declined to nominate a substitute case.

In addition to his *in extremis* health situation, Plaintiffs respectfully submit Mr. Knuteson's case is not sufficiently representative of the range of cases in the MDL. Medical records show Mr. Knuteson was diagnosed with an infection following a wound dehiscence, rather than a full deep joint infection. Upon review of the PFSes submitted in this MDL, less than 3.5% of all cases involve infection following wound dehiscence. Accordingly, Plaintiffs respectfully submit the Courts and the parties are unlikely to learn significant information from the trial of such a case which could ultimately provide useful lessons for the broader corpus of cases pending before Your Honors.

In light of both the wound dehiscence and his infirm health, Plaintiffs suggest this is not an appropriately representative case to be in the final group of bellwether trial candidates.

**2. Jeffrey Collins (D.Minn. 16-cv-1188)**  
**Plaintiff's Counsel: Levin, Papantonio, Thomas, Mitchell, Rafferty & Proctor, P.A.**

Mr. Collins was diagnosed with an MSSA infection following a series of knee operations. His total knee replacement surgery was done on 8/18/09. Mr. Collins then had an arthroscopic surgery on the same leg on 10/22/09. It was then in November, after that second surgical intervention, that Mr. Collins was diagnosed with a deep joint infection in his knee. Plaintiffs respectfully submit that the additional arthroscopic surgical intervention in between the time of the total knee replacement surgery and the ultimate date the infection was diagnosed makes this case unrepresentative of the range of cases in these consolidated litigations, and thus unsuitable for inclusion in the final group of bellwether trial candidates.

Please do not hesitate to contact us with any questions.

Respectfully submitted,

Meshbeshier & Spence LTD.

/s/ Genevieve Zimmerman

Genevieve M. Zimmerman

GMZ/

cc: All counsel of record (via CM/ECF)  
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